

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Provision of Directory Listing Information) CC Docket No. 99-273
under the Telecommunications Act of)
1934, As Amended)

PETITION FOR RECONSIDERATION OF
U S WEST COMMUNICATIONS, INC.

In accordance with 47 C.F.R. Section 1.429(a), U S WEST Communications, Inc. ("U S WEST") requests reconsideration of a mandate in the SLI Order,¹ where the Federal Communications Commission ("FCC" or "Commission") imposed certain mandates on carriers subject to 47 U.S.C. Section 222(e). The Commission held that carriers were required "to provide requesting directory publishers with notice of changes in subscriber list information [SLI] in [the] limited circumstance" where customers decide "to cease having particular telephone numbers listed."² The Commission determined that such mandate was necessary "to enable directory

¹ In the Matters of Implementation of the Telecommunications Act of 1996: Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Provision of Directory Listing Information Under the Telecommunications Act of 1934, As Amended, Third Report and Order in CC Docket No. 96-115 ("SLI Order"), Second Order on Reconsideration of the Second Report and Order in CC Docket No. 96-98, and Notice of Proposed Rulemaking in CC Docket No. 99-273, FCC 99-227, rel. Sep. 9, 1999.

² SLI Order ¶ 70.

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publishers to avoid listing those numbers.”³

Section 222(e), of course, requires exchange carriers to provide “listed” information to directory publishers -- not unlisted or nonpublished information, as the Commission itself acknowledged. Just paragraphs before the Commission mandates exchange carriers to provide “notice of changes” regarding the status of telephone numbers, the Commission stated: “Because the statutory definition of [SLI] specifically excludes unpublished and unlisted information, we conclude that section 222(e) does not require carriers to provide the names or addresses of subscribers with unlisted or unpublished numbers to independent publishers.”⁴

For this reason, as well as because we do not read the MCI advocacy cited by the Commission as supporting the requirement imposed in paragraph 70, we ask the Commission to reconsider its position and eliminate the requirement. A review of MCI’s filings demonstrates both a generality of reference with respect to the term “notice of all changes” (that is, it does not focus on or target telephone number status changes) and an advocacy around the need for “notice” that could be fully met through exchange carrier updates.⁵

³ Id.

⁴ Id. ¶ 41.

⁵ MCI’s overall advocacy was that the SLI offering itself should be reconfigured to include not only published information, but also nonlisted and nonpublished information. Comments of MCI Telecommunications Corporation, CC Docket No. 96-115, filed June 11, 1996 at Attachment A (“Information shall be identified and provided as Listed; Non-Listed; and Non-Published.”) (“MCI Comments”). And see Reply Comments of MCI Telecommunications Corporation, CC Docket No. 96-115, filed June 26, 1996 at 15, responding to a NYNEX position that lists provided to directory publishers should not include nonpublished or nonlisted information, and

MCI's advocacy on the issue of "notice of all changes" consisted of a single sentence. When taken in context, it is clear that MCI was arguing that daily updates were needed in order for directory publishers to be able to produce accurate directories. (As the Commission itself acknowledged, some carriers were opposing reading Section 222(e) as requiring the production of updates, let alone daily updates.)⁶ MCI stated: "Briefly summarized, SLI must be made available in electronic format, with daily updates . . . The Commission should require exchange carriers to provide immediate notice of all changes, additions, and deletions of SLI as they accept that information."⁷

MCI's requirements can be met without the creation of a "new" type of non-SLI list, such as that mandated by paragraph 70. The daily updates produced by U S WEST, for example, do provide "all changes, additions, and deletions" of SLI, just as MCI wanted. In the "out" category of the updates are included those customers "who request that previously listed numbers cease to be listed,"⁸ whether the request is due to a disconnection or a change in status from published to

arguing that "such information must be provided" and that "**directory service providers** need the information" because they need to be able to compare the SLI received from exchange carriers against the lists they purchased from third parties in order "to know what not to publish in order to be able to honor consumer privacy needs." (emphases added.) Some reading the MCI comments might claim that a Freudian slip occurred in the filing with respect to who might be utilizing the SLI purchased under Section 222(e) (i.e., "directory service providers" rather than "directory publishers") and who needed to know the published/nonpublished status.

⁶ SLI Order ¶¶ 42-48.

⁷ MCI Comments at 22.

⁸ See SLI Order ¶ 70.

nonpublished or nonlisted. This “update,” then, accomplishes exactly the goal the Commission and MCI had in mind: “to enable directory publishers to avoid listing . . . numbers [no longer warranting publication].”⁹

Not only do the updates now required to be provided under the terms of the SLI Order provide the information the Commission desires to get into the hands of directory publishers, it does so in the context of existing systems and technology. Creating the kind of “number change status list” functionality the Commission mandates would involve new systems work, since such functionality does not currently exist. Given that U S WEST has never had a request for such a list in this format gives us grave concern over product development costs and their ultimate recovery.¹⁰

While the Commission clearly confines the obligation to provide such a list to a context in which there are “requesting directory publishers,” neither the comments filed nor the SLI Order itself actually reflect demand for such a “notice of change” list. For that reason, the Commission should make clear that exchange carriers have no obligation to create this sorting functionality or list prior to the time such a request from a directory publisher is actually made.

Once such a request is received, the Commission should acknowledge that

⁹ Id.; MCI Reply at 15 (“to know what not to publish in order to be able to honor consumer privacy needs”).

¹⁰ In U S WEST’s experience, it appears all too common a phenomenon that carriers, especially those in potential competition with us, demand access or services regarding which there is no real purchase intention. Such actions merely drive up U S WEST’s provisioning costs, but provide us with no concomitant revenue stream.

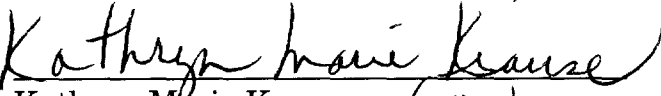
exchange carriers will need sufficient time (especially as we approach the upcoming Year 2000) to create the functionality. Finally, the Commission should make clear that exchange carriers have no obligation to create such a list unless cost recovery is assured. This might include a requirement for deposits or down payments. And, it might require that the cost of the listings on the "notice of change" list be higher than the presumptively reasonable four to six cents per listing charge the Commission has currently found within a presumed zone of reasonableness.¹¹

For all the above reasons, U S WEST asks the Commission to reconsider the obligations it imposed on exchange carriers in paragraph 70 of the SLI Order.

Respectfully submitted,

U S WEST COMMUNICATIONS, INC.

By:


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November 4, 1999

¹¹ SLI Order ¶ 72.

CERTIFICATE OF SERVICE

I, Rebecca Ward, do hereby certify that on this 4th day of November, 1999, I have caused a copy of the foregoing **PETITION FOR RECONSIDERATION OF U S WEST COMMUNICATIONS, INC.** to be served, via hand delivery, upon the persons listed on the attached service list.


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